

CLOSED,JURY,PROSE

U.S. District Court
District of South Carolina (Anderson/Greenwood)
CIVIL DOCKET FOR CASE #: 8:18-cv-02275-HMH

Little v. Wilkie et al
Assigned to: Honorable Henry M Herlong, Jr
Cause: 42:1983 Civil Rights Act

Date Filed: 08/15/2018
Date Terminated: 03/25/2019
Jury Demand: Plaintiff
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: Federal Question

Plaintiff**Bessie L Little**

represented by **Bessie L Little**
302 St Aubustine Dr
Greenwood, SC 29649
PRO SE

V.

Defendant

Robert Wilkie
Secretary of the Dept of Veteran Affairs

represented by **Barbara Murcier Bowens**
US Attorneys Office
1441 Main Street
Suite 500
Columbia, SC 29201
803-929-3000
Fax: 803-252-2759
Email: barbara.bowens@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

James M Byrne
General Counsel, Dept of Veteran Affairs

represented by **Barbara Murcier Bowens**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Mae Hazel
FOIA Privacy Officer

represented by **Barbara Murcier Bowens**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Mary Ann Wentzel
VA Records & Management & Intake

represented by **Barbara Murcier Bowens**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/15/2018	<u>1</u>	COMPLAINT against James M Byrne, Mae Hazel, Mary Ann Wentzel, Robert Wilkie, filed by Bessie L Little. Service due by 11/13/2018.(kmca) (Entered: 08/16/2018)
08/15/2018	<u>3</u>	MOTION for Leave to Proceed in forma pauperis (Restricted Access) by Bessie L Little. Response to Motion due by 8/29/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.Motions referred to Jacquelyn D Austin.(kmca) (Entered: 08/16/2018)

08/15/2018	<u>4</u>	Local Rule 26.01 Answers to Interrogatories by Bessie L Little.(kmca) (Entered: 08/16/2018)
08/27/2018	<u>8</u>	TEXT ORDER granting <u>3</u> Motion for Leave to Proceed in forma pauperis. Signed by Magistrate Judge Jacquelyn D Austin on 8/27/2018.(gpre,) (Entered: 08/27/2018)
08/27/2018	<u>9</u>	PROPER FORM ORDER directing Plaintiff to notify the clerk in writing of any change of address. Case to be brought into proper form by 9/17/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. Signed by Magistrate Judge Jacquelyn D Austin on 8/27/2018. (gpre,) (Entered: 08/27/2018)
08/27/2018	<u>10</u>	***DOCUMENT MAILED <u>8</u> Order on Motion for Leave to Proceed in forma pauperis, <u>9</u> Proper Form Order, Summons form, USM-285 forms (4), placed in U.S. Mail to Bessie Little (gpre,) (Entered: 08/27/2018)
09/07/2018	<u>13</u>	ORDER authorizing service of process by clerk and directing plaintiff to notify the clerk in writing of any change of address Signed by Magistrate Judge Jacquelyn D Austin on 9/7/2018. (kric,) (Entered: 09/07/2018)
09/07/2018	<u>14</u>	***DOCUMENT MAILED <u>13</u> Order Service – Non-Inmate placed in U.S. Mail to Bessie L. Little (kric,) (Entered: 09/07/2018)
09/07/2018	<u>15</u>	Summons Issued as to James M Byrne, Mae Hazel, Mary Ann Wentzel, Robert Wilkie. (kric,) (Entered: 09/07/2018)
09/07/2018	<u>16</u>	Summons Issued as to James M Byrne. U.S. Attorney and U.S. Attorney General. Service due by 12/6/2018 (Attachments: # <u>1</u> Summons Attorney General)(kric,) (Entered: 09/07/2018)
10/26/2018	<u>18</u>	SUMMONS Returned Executed Mae Hazel served on 9/17/2018, Mary Ann Wentzel served on 9/18/2018, Attorney General USA served on 9/19/2018, US Attorney District of SC served 9/17/2018, Answer due 11/16/2018. (gpre,) (Entered: 10/26/2018)
11/05/2018	<u>19</u>	MOTION for Summary Judgment by James M Byrne, Mae Hazel, Mary Ann Wentzel, Robert Wilkie. Response to Motion due by 11/19/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Civ. P. 45. (Attachments: # <u>1</u> Exhibit 1, Senators Correspondence, # <u>2</u> Exhibit 2, Notification)No proposed order.Motions referred to Jacquelyn D Austin.(Bowens, Barbara) (Attachment 1 replaced as provided by filing user on 11/13/2018) (gpre,). (Entered: 11/05/2018)
11/05/2018	<u>20</u>	ROSEBORO ORDER directing clerk to forward summary judgment explanation to the opposing party and directing that party to respond in 31 days. Response to <u>19</u> MOTION for Summary Judgment due by 12/6/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Civ. P. 45. Signed by Magistrate Judge Jacquelyn D Austin on 11/5/2018. (gpre,) (Entered: 11/05/2018)
11/05/2018	<u>21</u>	***DOCUMENT MAILED <u>20</u> Roseboro Order, placed in U.S. Mail to Bessie Little (gpre,) (Entered: 11/05/2018)
11/19/2018	<u>22</u>	Pro Se MOTION to Seal, Motion to Mediate by Bessie L Little (Response to Motion due by 12/3/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Civ. P. 45.), by Bessie L Little. (Attachments: # <u>1</u> Supporting Documents)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 11/19/2018)
11/19/2018	<u>23</u>	RESPONSE in Opposition re <u>19</u> MOTION for Summary Judgment. Response filed by Bessie L Little.Reply to Response to Motion due by 11/26/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Supporting Documents)(gpre,) (Entered: 11/26/2018)
12/03/2018	<u>25</u>	REPLY to Response to Motion re <u>19</u> MOTION for Summary Judgment , <u>22</u> MOTION to Seal MOTION Mediate Response filed by James M Byrne, Mae Hazel, Mary Ann Wentzel, Robert Wilkie. (Bowens, Barbara) (Entered: 12/03/2018)

12/06/2018	<u>27</u>	AMENDED RESPONSE in Opposition re <u>19</u> MOTION for Summary Judgment Response filed by Bessie L Little. Reply to Response to Motion due by 12/13/2018 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Supporting Documents)(gpre,) (Entered: 12/07/2018)
12/07/2018	<u>30</u>	PRO SE REPLY to REPLY to Response to Motion re <u>19</u> MOTION for Summary Judgment , <u>22</u> MOTION to Seal. Reply filed by Bessie L Little. (Attachments: # <u>1</u> Supporting Documents, No Envelope)(gpre,) (Entered: 12/11/2018)
12/12/2018	<u>31</u>	SUMMONS Returned Executed James M Byrne served on 11/29/2018, answer due 12/20/2018; Robert Wilkie served on 11/29/2018, answer due 12/20/2018. (Attachments: # <u>1</u> USPS tracking, # <u>2</u> USM-285, # <u>3</u> USPS tracking)(gpre,) (Entered: 12/12/2018)
02/01/2019	<u>33</u>	MOTION to Expedite a final summary judgment by Bessie L Little. Response to Motion due by 2/15/2019. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order. Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 02/01/2019)
02/07/2019	34	TEXT ORDER denying <u>22</u> pro se motion to seal and to mediate. Plaintiff seeks to seal "any filing pertaining to [this Freedom of Information Act] case." As Defendants argue, Plaintiff has failed to comply with Local Civil Rule 5.03. D.S.C. Moreover, Defendants have redacted any personal identifying information [see, e.g., Doc. 19-1 at 4], and Plaintiff has been warned to remove personal identifying information from documents before submitting them to the Court for filing [Doc. 9 at 4]. Additionally, Plaintiff's request for mediation is premature, as Defendants contend this case is moot. The Court will address Defendants' argument that the case is moot before ordering mediation. Signed by Magistrate Judge Jacquelyn D Austin on 2/7/2019.(gpre,) (Entered: 02/07/2019)
02/07/2019	35	TEXT ORDER for supplemental briefing. Defendants contend this case is moot because the Department of Veterans Affairs ("VA") "has released the documents sought by [Plaintiff]." [Doc. 19 at 3.] More specifically, Defendants assert that "[t]he VA provided the information to Senator Graham's Office and notified Plaintiff that the information had been provided." [Id. at 2.] Although case law provides that "[i]f a person receives all the information he has requested under [the Freedom of Information Act ("FOIA")], even if the information was delivered late, his FOIA claim is moot to the extent that such information was sought," Von Grabe v. U.S. Dep't of Homeland Sec., 440 F. App'x 687, 688 (11th Cir. 2011), Defendants have failed to demonstrate in this case that Plaintiff received the documents she seeks in this case. Instead, Defendants have established only that the requested documents were sent to Senator Graham's office. Accordingly' by February 21, 2019, Defendants shall file a supplemental brief addressing whether Plaintiff has received the documents she seeks in this case, "[her] late husband['s] VA claims folder... as well as any temporary files and also all C&P Exams from 1941 to present." [Doc. 1 at 6.] Signed by Magistrate Judge Jacquelyn D Austin on 2/6/2019. (gpre,) (Entered: 02/07/2019)
02/07/2019	36	***DOCUMENT MAILED 35 Order, 34 Order on Motion to Seal,,, Order on Motion for Miscellaneous Relief, placed in U.S. Mail to Bessie Little (gpre,) (Entered: 02/07/2019)
02/21/2019	<u>38</u>	REPLY by James M Byrne, Mae Hazel, Mary Ann Wentzel, Robert Wilkie to 35 Order,,,,, <i>SUPPLEMENTAL BRIEF</i> . (Attachments: # <u>1</u> Exhibit 1, Declaration of Linda G. Kaigler)(Bowens, Barbara) (Entered: 02/21/2019)
02/26/2019	<u>40</u>	REPORT AND RECOMMENDATION recommends <u>19</u> Defendants' Motion for Summary Judgment be GRANTED, <u>33</u> Plaintiff's Motion to Expedite a final summary judgment be DENIED. Objections to R&R due by 3/12/2019. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Signed by Magistrate Judge Jacquelyn D Austin on 2/26/2019. (Attachments: # <u>1</u> Notice of Right to File Objection)(gpre,) (Entered: 02/26/2019)
02/26/2019	41	***DOCUMENT MAILED <u>40</u> REPORT AND RECOMMENDATION placed in U.S. Mail to Bessie Little (gpre,) (Entered: 02/26/2019)

02/26/2019	<u>42</u>	REPLY by Bessie L Little to <u>38</u> Supplemental Brief. (Attachments: # <u>1</u> Supporting Documents)(gpre,) (Entered: 02/27/2019)
03/25/2019	44	***CASE MANAGEMENT TRANSFERRED to civil case manager for Judge Henry M. Herlong, Jr.(gpre,) (Entered: 03/25/2019)
03/25/2019	<u>45</u>	ORDER RULING ON <u>40</u> REPORT AND RECOMMENDATION, GRANTING <u>19</u> Defendants' Motion for Summary Judgment, filed by Robert Wilkie, James M Byrne, Mae Hazel, Mary Ann Wentzel; DENYING <u>33</u> Motion to Expedite a final summary judgment filed by Bessie L Little. Signed by Honorable Henry M Herlong, Jr on 3/25/19. (sfla) (Entered: 03/25/2019)
03/25/2019	<u>46</u>	SUMMARY JUDGMENT in favor of defendants against plaintiff (sfla) (Entered: 03/25/2019)
03/25/2019	47	***DOCUMENT MAILED <u>46</u> Summary Judgment, <u>45</u> Order Ruling on Report and Recommendation, placed in U.S. Mail to pro se plaintiff (sfla) (Entered: 03/25/2019)